

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and

(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) PURPOSE.—The purpose of this Act is to provide for the implementation and enforcement of air quality control programs under the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide for—

(1) the regulation of air quality within the exterior boundaries of the Reservation; and

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) COMMISSION.—The term “Commission” means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.

(3) INTERGOVERNMENTAL AGREEMENT.—The term “Intergovernmental Agreement” means the agreement entered into by the Tribe and the State on December 13, 1999.

(4) RESERVATION.—The term “Reservation” means the Southern Ute Indian Reservation.

(5) STATE.—The term “State” means the State of Colorado.

(6) TRIBE.—The term “Tribe” means the Southern Ute Indian Tribe.

#### SEC. 4. TRIBAL AUTHORITY.

(a) AIR PROGRAM APPLICATIONS.—

(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out, in a manner consistent with the Clean Air Act (42 U.S.C. 7401 et seq.), the Intergovernmental Agreement.

(2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Reservation.

(b) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Administrator shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

#### SEC. 5. CIVIL ENFORCEMENT.

(a) IN GENERAL.—If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.

(b) NO EFFECT ON RIGHTS OR AUTHORITY.—Nothing in this Act alters, amends, or modifies any right or authority of any person (as defined in section 302(e) of the Clean Air Act (42 U.S.C. 7601(e))) to bring a civil action under section 304 of the Clean Air Act (42 U.S.C. 7603).

#### SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

#### SEC. 7. DISCLAIMER.

Nothing in this Act—

(1) modifies any provision of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) Public Law 98-290 (25 U.S.C. 668 note); or

(C) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

### DISASTER AREA HEALTH AND ENVIRONMENTAL MONITORING ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of Calendar 360, S. 1279.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1279) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1279

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### [SECTION 1. SHORT TITLE.

[This Act may be cited as the “Disaster Area Health and Environmental Monitoring Act of 2003”.

#### [SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

[Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended by inserting after section 408 (42 U.S.C. 5174) the following:

#### [“SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

[“(a) DEFINITIONS.—In this section:

[“(1) INDIVIDUAL.—The term ‘individual’ includes—

[“(A) a worker or volunteer who responds to a disaster, including—

[“(i) a police officer;

[“(ii) a firefighter;

[“(iii) an emergency medical technician;

[“(iv) any participating member of an urban search and rescue team; and

[“(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

[“(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

[“(C) a person whose place of residence is in a disaster area;

[“(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

[“(E) any other person that the President determines to be appropriate.

[“(2) PROGRAM.—The term ‘program’ means a program described in subsection (b) that is carried out for a disaster area.

[“(3) SUBSTANCE OF CONCERN.—The term ‘substance of concern’ means any chemical or substance associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster.

[“(b) PROGRAM.—

[“(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

[“(A) the individuals are adequately informed about and protected against potential health impacts of the substance of concern and potential mental health impacts in a timely manner;

[“(B) the individuals are monitored and studied over time, including through baseline and follow-up clinical health examinations, for—

[“(i) any short- and long-term health impacts of any substance of concern; and

[“(ii) any mental health impacts;

[“(C) the individuals receive health care referrals as needed and appropriate; and

[“(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

[“(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

[“(A) collecting and analyzing environmental exposure data;

[“(B) developing and disseminating information and educational materials;

[“(C) performing baseline and follow-up clinical health and mental health examinations and taking biological samples;

[“(D) establishing and maintaining an exposure registry;

[“(E) studying the long-term human health impacts of any exposures through epidemiological and other health studies; and

[“(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

[“(3) TIMING.—To the maximum extent practicable, a program under paragraph (1) shall be established, and activities under the program shall be commenced (including baseline health examinations), in a timely manner that will ensure the highest level of public health protection and effective monitoring.

[“(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

[“(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

[“(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

[“(5) COOPERATIVE AGREEMENTS.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, or a consortium of medical institutions, that is—

[“(A) located near the disaster area, and near groups of individuals that worked or volunteered in response to the disaster in the disaster area, with respect to which the program is carried out; and

[(B) experienced in the area of environmental or occupational health, toxicology, and safety, including experience in—

[(i) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

[(ii) conducting long-term health monitoring and epidemiological studies;

[(iii) conducting long-term mental health studies; and

[(iv) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

[(6) INVOLVEMENT.—

[(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall ensure the involvement of interested and affected parties, as appropriate, including representatives of—

[(i) Federal, State, and local government agencies;

[(ii) labor organizations;

[(iii) local residents, businesses, and schools (including parents and teachers);

[(iv) health care providers; and

[(v) other organizations and persons.

[(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

[(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.”

### **ISEC. 3. BLUE RIBBON PANEL ON DISASTER AREA HEALTH PROTECTION AND MONITORING.**

[(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this section, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly establish a Blue Ribbon Panel on Disaster Area Health Protection and Monitoring (referred to in this section as the “Panel”).

[(b) MEMBERSHIP.—

[(1) IN GENERAL.—The Panel shall be composed of—

[(A) 15 voting members, to be appointed by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency in accordance with paragraph (2); and

[(B) officers or employees of the Department of Health and Human Services, the Department of Homeland Security, the Environmental Protection Agency, and other Federal agencies, as appropriate, to be appointed by the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency as nonvoting, ex officio members of the Panel.

[(2) BACKGROUND AND EXPERTISE.—The voting members of the Panel shall be individuals who—

[(A) are not officers or employees of the Federal Government; and

[(B) have expertise in—

[(i) environmental health, safety, and medicine;

[(ii) occupational health, safety, and medicine;

[(iii) clinical medicine, including pediatrics;

[(iv) toxicology;

[(v) epidemiology;

[(vi) mental health;

[(vii) medical monitoring and surveillance;

[(viii) environmental monitoring and surveillance;

[(ix) environmental and industrial hygiene;

[(x) emergency planning and preparedness;

[(xi) public outreach and education;

[(xii) State and local health departments;

[(xiii) State and local environmental protection departments;

[(xiv) functions of workers that respond to disasters, including first responders; and

[(xv) public health and family services.

[(c) DUTIES.—

[(1) IN GENERAL.—The Panel shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

[(A) the implementation of programs under section 409 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 2); and

[(B) the establishment of protocols for the monitoring of and response to releases of substances of concern (as defined in section 409(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 2)) in a disaster area for the purpose of protecting public health and safety, including—

[(i) those substances of concern for which samples should be collected in the event of a disaster, including a terrorist attack;

[(ii) chemical-specific methods of sample collection, including sampling methodologies and locations;

[(iii) chemical-specific methods of sample analysis;

[(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or substances;

[(v) procedures for providing monitoring results to—

[(I) appropriate Federal, State, and local government agencies;

[(II) appropriate response personnel; and

[(III) the public;

[(vi) responsibilities of Federal, State and local agencies for—

[(I) collecting and analyzing samples;

[(II) reporting results; and

[(III) taking appropriate response actions; and

[(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

[(C) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

[(2) REPORT.—Not later than 1 year after the date of establishment of the Panel, the Panel shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency a report of the findings and recommendations of the Panel under this section, including recommendations for such legislative and administrative actions as the Panel considers to be appropriate.

[(d) POWERS.—

[(1) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers necessary to carry out this section.

[(2) INFORMATION FROM FEDERAL AGENCIES.—

[(A) IN GENERAL.—The Panel may secure directly from any Federal department or agency such information as the Panel considers necessary to carry out this section.

[(B) FURNISHING OF INFORMATION.—On request of the Panel, the head of the department or agency shall furnish the information to the Panel.

[(3) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

[(e) PERSONNEL.—

[(1) TRAVEL EXPENSES.—The members of the Panel shall not receive compensation for the performance of services for the Panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

[(2) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the Panel.

[(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

[(4) STAFF, INFORMATION, AND OTHER ASSISTANCE.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall provide to the Panel such staff, information, and other assistance as may be necessary to carry out the duties of the Panel.

[(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

[(g) TERMINATION OF AUTHORITY.—This section, the authority provided under this section, and the Panel shall terminate on the date that is 18 months after the date of enactment of this Act.]

### **SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Disaster Area Health and Environmental Monitoring Act of 2003”.*

### **SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.**

*Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended by inserting after section 408 (42 U.S.C. 5174) the following:*

#### **“SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.**

*“(a) DEFINITIONS.—In this section:*

*“(1) INDIVIDUAL.—The term ‘individual’ includes—*

*“(A) a worker or volunteer who responds to a disaster, including—*

*“(i) a police officer;*

*“(ii) a firefighter;*

*“(iii) an emergency medical technician;*

*“(iv) any participating member of an urban search and rescue team; and*

*“(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;*

*“(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;*

*“(C) a person whose place of residence is in a disaster area;*

*“(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and*

“(E) any other person that the President determines to be appropriate.

“(2) PROGRAM.—The term ‘program’ means a program described in subsection (b) that is carried out for a disaster area.

“(3) SUBSTANCE OF CONCERN.—The term ‘substance of concern’ means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

“(b) PROGRAM.—

“(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

“(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern and potential mental health impacts in a timely manner;

“(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

“(i) any short- and long-term health impacts of any substance of concern; and

“(ii) any mental health impacts;

“(C) the individuals receive health care referrals as needed and appropriate; and

“(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

“(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

“(A) collecting and analyzing environmental exposure data;

“(B) developing and disseminating information and educational materials;

“(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

“(D) establishing and maintaining an exposure registry;

“(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

“(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

“(3) TIMING.—To the maximum extent practicable, activities under any program established under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

“(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

“(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

“(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

“(5) COOPERATIVE AGREEMENTS.—

“(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution or a consortium of medical institutions.

“(B) SELECTION CRITERIA.—To the maximum extent practicable, the President shall select to carry out a program under paragraph (1) a medical institution or a consortium of medical institutions that—

“(i) is located near—

“(I) the disaster area with respect to which the program is carried out; and

“(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

“(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

“(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

“(II) conducting long-term health monitoring and epidemiological studies;

“(III) conducting long-term mental health studies; and

“(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

“(6) INVOLVEMENT.—

“(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

“(i) Federal, State, and local government agencies;

“(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

“(iii) local residents, businesses, and schools (including parents and teachers);

“(iv) health care providers; and

“(v) other organizations and persons.

“(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

“(C) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.”.

### SEC. 3. NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.

(a) IN GENERAL.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(b) EXPERTISE.—The report under subsection (a) shall be prepared with the participation of individuals who have expertise in—

(1) environmental health, safety, and medicine;

(2) occupational health, safety, and medicine;

(3) clinical medicine, including pediatrics;

(4) toxicology;

(5) epidemiology;

(6) mental health;

(7) medical monitoring and surveillance;

(8) environmental monitoring and surveillance;

(9) environmental and industrial hygiene;

(10) emergency planning and preparedness;

(11) public outreach and education;

(12) State and local health departments;

(13) State and local environmental protection departments;

(14) functions of workers that respond to disasters, including first responders; and

(15) public health and family services.

(c) CONTENTS.—The report under subsection (a) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(1) the establishment of protocols for the monitoring of and response to chemical or substance releases in a disaster area for the purpose of protecting public health and safety, including—

(A) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(B) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(C) chemical- or substance-specific methods of sample analysis;

(D) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(E) procedures for providing monitoring results to—

(i) appropriate Federal, State, and local government agencies;

(ii) appropriate response personnel; and

(iii) the public;

(F) responsibilities of Federal, State and local agencies for—

(i) collecting and analyzing samples;

(ii) reporting results; and

(iii) taking appropriate response actions; and

(G) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(2) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. FRIST. I ask unanimous consent that the Inhofe amendment at the desk be agreed to; the committee substitute amendment, as amended, be agreed to; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2210) was agreed to, as follows:

(Purpose: To require that health and safety programs be carried out in accordance with certain privacy regulations)

On page 19, line 16, insert “, including a local health department,” after “institution”.

On page 21, between lines 18 and 19, insert the following:

“(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note; Public Law 104-191).

At the end, add the following:

### SEC. 4. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking “December 31, 2003” and inserting “September 30, 2006”.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1279), as amended, was read the third time and passed, as follows:

S. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Disaster Area Health and Environmental Monitoring Act of 2003”.

### SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is

amended by inserting after section 408 (42 U.S.C. 5174) the following:

**“SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.**

“(a) DEFINITIONS.—In this section:

“(1) INDIVIDUAL.—The term ‘individual’ includes—

“(A) a worker or volunteer who responds to a disaster, including—

“(i) a police officer;

“(ii) a firefighter;

“(iii) an emergency medical technician;

“(iv) any participating member of an urban search and rescue team; and

“(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

“(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

“(C) a person whose place of residence is in a disaster area;

“(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

“(E) any other person that the President determines to be appropriate.

“(2) PROGRAM.—The term ‘program’ means a program described in subsection (b) that is carried out for a disaster area.

“(3) SUBSTANCE OF CONCERN.—The term ‘substance of concern’ means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

“(b) PROGRAM.—

“(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

“(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern and potential mental health impacts in a timely manner;

“(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

“(i) any short- and long-term health impacts of any substance of concern; and

“(ii) any mental health impacts;

“(C) the individuals receive health care referrals as needed and appropriate; and

“(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

“(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

“(A) collecting and analyzing environmental exposure data;

“(B) developing and disseminating information and educational materials;

“(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

“(D) establishing and maintaining an exposure registry;

“(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

“(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

“(3) TIMING.—To the maximum extent practicable, activities under any program established under paragraph (1) (including baseline health examinations) shall be com-

menced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

“(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

“(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

“(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

“(5) COOPERATIVE AGREEMENTS.—

“(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

“(B) SELECTION CRITERIA.—To the maximum extent practicable, the President shall select to carry out a program under paragraph (1) a medical institution or a consortium of medical institutions that—

“(i) is located near—

“(I) the disaster area with respect to which the program is carried out; and

“(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

“(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

“(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

“(II) conducting long-term health monitoring and epidemiological studies;

“(III) conducting long-term mental health studies; and

“(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

“(6) INVOLVEMENT.—

“(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

“(i) Federal, State, and local government agencies;

“(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

“(iii) local residents, businesses, and schools (including parents and teachers);

“(iv) health care providers; and

“(v) other organizations and persons.

“(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

“(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note; Public Law 104-191).

“(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.”.

**SEC. 3. NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.**

(a) IN GENERAL.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(b) EXPERTISE.—The report under subsection (a) shall be prepared with the participation of individuals who have expertise in—

(1) environmental health, safety, and medicine;

(2) occupational health, safety, and medicine;

(3) clinical medicine, including pediatrics;

(4) toxicology;

(5) epidemiology;

(6) mental health;

(7) medical monitoring and surveillance;

(8) environmental monitoring and surveillance;

(9) environmental and industrial hygiene;

(10) emergency planning and preparedness;

(11) public outreach and education;

(12) State and local health departments;

(13) State and local environmental protection departments;

(14) functions of workers that respond to disasters, including first responders; and

(15) public health and family services.

(c) CONTENTS.—The report under subsection (a) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(1) the establishment of protocols for the monitoring of and response to chemical or substance releases in a disaster area for the purpose of protecting public health and safety, including—

(A) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(B) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(C) chemical- or substance-specific methods of sample analysis;

(D) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(E) procedures for providing monitoring results to—

(i) appropriate Federal, State, and local government agencies;

(ii) appropriate response personnel; and

(iii) the public;

(F) responsibilities of Federal, State and local agencies for—

(i) collecting and analyzing samples;

(ii) reporting results; and

(iii) taking appropriate response actions; and

(G) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(2) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 4. PREDISASTER HAZARD MITIGATION.**

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking "December 31, 2003" and inserting "September 30, 2006".

**NATIONAL TRANSPORTATION SAFETY BOARD REAUTHORIZATION ACT OF 2003**

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 112, S. 579.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 579) to reauthorize the National Transportation Safety Board, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I am pleased that the Senate is now considering S. 579, the National Transportation Safety Board Reauthorization Act of 2003. This bill was introduced by Senators HOLLINGS, LOTT, HUTCHISON, ROCKEFELLER and myself, and it was unanimously approved by the Senate Committee on Commerce, Science, and Transportation on March 22, 2003.

Each year, the National Transportation Safety Board, NTSB, investigates more than 2,000 transportation accidents and events, including all fatal aviation accidents, and hundreds of railroad, highway, maritime, and pipeline transportation accidents. The NTSB also conducts safety studies, and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents. Most importantly, the NTSB makes safety recommendations, based on its investigations, to federal, state and local government agencies and to the transportation industry regarding actions that should be taken to prevent accidents.

This legislation would authorize appropriations for the NTSB for fiscal years 2003 through 2006. It also would allow the NTSB to relinquish responsibility for providing assistance to families of victims of accidents to the FBI if it takes over the investigation, and give the NTSB expedited procurement procedures to aid in accident investigations.

The bill is being proposed along with an amendment that incorporates provisions from the House-passed version of its NTSB reauthorization bill, H.R. 1527. The amendment was developed in cooperation with the House Transportation and Infrastructure Committee. Among other things, it includes a provision that would require the Secretary of Transportation to submit annual status reports on the Department's progress in meeting the safety recommendations stemming from the NTSB's "most wanted list."

The NTSB's safety investigations and the resulting recommendations play a vital role in ensuring the safe and effi-

cient operation of our nation's transportation system. It is my understanding that the NTSB supports this legislation.

I urge the Senate to pass this important legislation so the House of Representatives can consider it before they adjourn for the year.

Mr. FRIST. I ask unanimous consent that the McCain-Hollings amendment at the desk be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table en bloc, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2211) was agreed to, as follows:

(Purpose: To add provisions relating to accident and safety data classification and publication from H.R. 1527, as passed by the House of Representatives, and for other purposes)

On page 2, line 15, strike "\$3,000,000." and insert "\$4,000,000."

On page 3, line 6, strike "paragraph" and insert "subsection".

On page 3, line 16, strike the closing quotation marks and the second period.

On page 3, line 17, strike "(c)" and insert "(d)".

On page 3, line 21, insert closing quotation marks and a period after the period.

On page 5, strike lines 7 through 21, and insert the following:

**SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.**

(a) IN GENERAL.—From the date of enactment of this Act through September 30, 2006, the National Transportation Safety Board may enter into agreements or contracts under the authority of section 1113(b)(1)(B) of title 49, United States Code for investigations conducted under section 1131 of that title without regard to any other provision of law requiring competition if necessary to expedite the investigation.

(b) REPORT ON USAGE.—On February 1, 2006, the National Transportation Safety Board shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Government Reform, the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Government Affairs that—

(1) describes each contract for \$25,000 or more executed by the Board to which the authority provided by subsection (a) was applied; and

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

On page 5, after line 21, add the following:

**SEC. 5. ACCIDENT AND SAFETY DATA CLASSIFICATION AND PUBLICATION.**

Section 1119 of title 49, United States Code, is amended by adding at the end the following:

"(c) APPEALS.—

"(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

"(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

"(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life."

**SEC. 6. SECRETARY OF TRANSPORTATION'S RESPONSES TO SAFETY RECOMMENDATIONS.**

Section 1135(d) of title 49, United States Code, is amended to read as follows:

"(d) REPORTING REQUIREMENTS.—

"(1) ANNUAL SECRETARIAL REGULATORY STATUS REPORTS.—On February 1 of each year, the Secretary shall submit a report to Congress and the Board containing the regulatory status of each recommendation made by the Board to the Secretary (or to an Administration within the Department of Transportation) that is on the Board's 'most wanted list'. The Secretary shall continue to report on the regulatory status of each such recommendation in the report due on February 1 of subsequent years until final regulatory action is taken on that recommendation or the Secretary (or an Administration within the Department) determines and states in such a report that no action should be taken.

"(2) FAILURE TO REPORT.—If on March 1 of each year the Board has not received the Secretary's report required by this subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the Secretary's failure to submit the required report.

"(3) TERMINATION.—This subsection shall cease to be in effect after the report required to be filed on February 1, 2008, is filed."

**SEC. 7. TECHNICAL AMENDMENTS.**

Section 1131(a)(2) of title 49, United States Code, is amended by moving subparagraphs (B) and (C) 4 ems to the left.

**SEC. 8. DOT INSPECTOR GENERAL INVESTIGATIVE AUTHORITY.**

(a) IN GENERAL.—Section 228 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1773) is transferred to, and added at the end of, subchapter III of chapter 3 of title 49, United States Code, as section 354 of that title.

(b) CONFORMING AMENDMENTS.—

(1) The caption of the section is amended to read as follows:

**"§354. Investigative authority of Inspector General".**

(2) The chapter analysis for chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"354. Investigative authority of Inspector General".

**SEC. 9. REPORTS ON CERTAIN OPEN SAFETY RECOMMENDATIONS.**

(a) INITIAL REPORT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress and the National Transportation Safety Board containing the regulatory status of each open safety recommendation made by the Board to the Secretary concerning—

- (1) 15-passenger van safety;
- (2) railroad grade crossing safety; and
- (3) medical certifications for a commercial driver's license.

(b) BIENNIAL UPDATES.—The Secretary shall continue to report on the regulatory status of each such recommendation (and any subsequent recommendation made by the Board to the Secretary concerning a matter described in paragraph (1), (2), or (3) of subsection (a)) at 2-year intervals until—

- (1) final regulatory action has been taken on the recommendation;
- (2) the Secretary determines, and states in the report, that no action should be taken on that recommendation; or
- (3) the report, if any, required to be submitted in 2008 is submitted.

(c) FAILURE TO REPORT.—If the Board has not received a report required to be submitted under subsection (a) or (b) within 30